

February 12, 2007

Dear Ladies and Gentlemen of the Legislature;

My name is Debra Wolverton; I am writing this letter because I am an injured worker, and I would like to bring to your attention some of the problems we injured workers face within the Workers Compensation system.

I was injured February 9, 1993 while working as a Railcar Switch person. I had just unhooked the last car onto a reserve track and was walking back to the train engine. The only place available to walk was on a crust of snow which was over one foot deep piled between the tracks. I happened to step into an air pocket in the crust of snow which caused me to fall into the foot deep space and my knee to hyperextend backwards at a sharp angle. The pain was so intense that I thought I would faint, I couldn't talk or stand, and broke out in a full sweat despite it being frigid temperatures outside. This is how my journey began through the workers compensation system.

My injury was unique because my tendons and ligaments didn't tear or come loose when the accident happened, they all stretched. When the Doctors would examine me they would have me sit with my legs straight out in front of me and by holding onto my toes they would lift my leg; from the knee down it would raise well over 30 degrees before my thigh would begin to lift off of the surface. This was without any force, if they applied any force it could and would go even further backwards, but became too painful for me to endure. Because of the uniqueness of the injury the Doctors didn't have a well laid out plan on how to deal with my condition. Finding a Doctor was a challenge on two fronts; the first challenge was to find one to deal with my injury and the second challenge to find one that would deal with a Workers Compensation case. Some doctors refused to even talk with me because my case involved Workers Compensation. This was extremely frustrating to be told that a certain doctor is very good in an area or specializes in an area that may be beneficial to me and not be able to get an appointment with them because my case was Workers Compensation.

Initially I trusted the Workers Compensation system, I thought as long as I did everything that I was asked to do, everything would be fine. Not knowing what my options or rights were I trusted the adjusters to guide me. But the guidance was always very one sided, it was always focused on the companies dollar rather than my best interest. I soon found out that some of the most reliable information was to come from other injured workers who had already been through the system. Example: after months of traveling to medical appointments and a substantial amount of miles, another injured worker asked me if I knew that I was to be reimbursed for my mileage. Until that moment I didn't know that I could be, but when I asked my adjuster about it I was informed that a large portion of my mileage was outside of the 90 day deadline and that I could not be reimbursed for anything before that. So by not knowing what specific questions to ask and not being informed of my rights and/or benefits by my adjuster, I gave up benefits that were

rightfully due. To this day I don't know what or how many other rights or benefits I gave up unknowingly. I am but one case of how many other injured workers, is this how the system saves dollars and helps the workers?

I have learned to keep very detailed records of my case in order to make sure what I was being told from the adjusters was on track with what really happened. In essence I was trying to stop as many errors as I could, but no matter how much I documented it never seemed to be enough. With each change of adjuster, 12-14 different adjusters in my case, information was lost or misinterpreted. I would have to start completely over with each new adjuster, and many times they would interpret my benefits differently, which meant more paperwork, interruption, or ending of benefits. Years after my injury and after many different adjusters I was still having to explain my case over and over to new adjusters, at one point I had three different adjusters assigned to me within a two week time frame. Each new adjuster would call me, most not very politely, inform me that the conversation was being taped, and not really asking but demanding that I explain to them all of the details, dates, and findings of my case. So when ever I answered a phone call from the adjusters I was suppose to remember all of the pertinent information of my extensive file that was many years old at the drop of a hat with no prior notice over and over again. It was too much. The whole process is overwhelming, confusing, emotional and physical taxing. The third adjuster in that two week time frame tried to run the same routine on me, but I had had enough, I told her to read my file and after which if she had anything that she needed clarified she could call me and I would look it up and get back to her with the details. At this point she informed me again that I was being recorded and I told her that I hoped so, and I promptly hung up. I am an intelligent person but I was exhausted from trying to find my way though the process without any guidance from someone with my best interest in mind. At this point I decided I couldn't do this by myself anymore and that I needed to hire an attorney. This too proved to be quite a challenge, I was turned down by several attorneys for reasons from; "your case will take to long", or "not enough money in your case for the amount of work it will take over the years" or various other reasons before I finally found an attorney to represent me. But by that time I was a wreck both physically and emotionally.

Even after many years of being in the Workers Compensation system, I must analyze each and every bit of information in all correspondence from Workers Compensation and/or the Adjusters for would be ways to deplete my rightful benefits. Example: In what was presented to me as a couple of forms that I needed to sign to agree to my MMI benefits; one of the forms was actually a form to permanently settle my claim, which would have denied me of any future rightful benefits. I didn't understand or feel comfortable about some of the language on the forms so I took them to an attorney. The attorney informed me as to what the forms really were and advised me not to sign them. As Workers Compensation owed me my MMI benefits even if I didn't permanently settle my claim. Workers Compensation adjusters and I are both aware that I will need more surgery in the future. So if they could have gotten me to sign their form it would have saved them money no doubt, but at who's expense? At my expense, the injured worker, the worker who did nothing wrong, the one whose life has been forever changed, the one that didn't chose to be in the system, the very one that the system was set up to help.

Not only is my life forever changed because of my injury, in which I can no longer do many things that I loved doing before the accident, but I was also forced to give up a high paying job with benefits to live on a small percentage of my previous earnings, which many times are late or don't come at all, while I recuperated. When the benefits are late or don't come at all, it forces me to call, write, fax, e-mail, or most times all of the previously mentioned in order to get someone from Workers Compensation to respond and find out what happened to my benefits. This takes a lot of energy and effort on my part, but seems to be part of the norm by Workers Compensation standards, as even the attorney's don't seem rattled by it, its more or less expected as something that happens. I have been told by my adjusters that I was mysteriously booted from the system and that is why my benefit(s) were cancelled. I believed that the first time. After the third, fourth or what ever number of times we are now on, it gets rather frustrating. My husband and I were forced to deplete our savings account just to make ends meet or try to fill in the gaps when the benefits are late or missing. Thank god we were frugal enough and had the foresight to have a savings account in the first place or we could have lost everything that we've worked so hard for; I am sure that there are others that are not so fortunate. On top of that my husband has also lost a large amount of wages, of which we will never be reimbursed, from having to take time off from his work to assist me during my convalescences. What do we injured workers have to do in order to receive our benefits in a timely manner?

I have lost a way of life that I loved, had to endure excruciating physical pain, go to numerous medical appointments, panels of Doctors, Neurologist, Psychologist, third and fourth opinions, through painful surgeries and therapy, wade through daunting amounts of paperwork, answer what seemed to me as harassing phone calls from rude Workers Compensation employees, all in order to get through the system. A lot of wasted time and energy to prove an injury that is the same as was stated from the very first and something that couldn't be faked. Enough time has elapsed in my case that I have also ruined my good knee compensating for my injured knee, creating even more physical pain for me and more issues to deal with for Workers Compensation. In essence the Workers Compensation own system cost them more money. I am glad that I didn't have anything that was terminal or I could have died before this complicated process addressed my problem, my fear is that there are other injured workers that are shorter on time that won't make it through the system. The system has many flaws, I have just touched on a few, but I bet if each of you had to go through what we injured workers have to go through there would be many changes made fast.

Why should the injured workers be forced to give up benefits because they didn't know what questions to ask? Why should we injured workers be forced to hire an attorney to guide them through the system just to get the benefits that are already rightfully ours? Why shouldn't we injured workers have the choice to choose our own advocates to help us through the system, someone that we felt would truly have our best interest in mind? Instead of someone that is suppose to be our advocate but who is paid by the insurer and/or company and who is focused on trying to limit as many payments flowing out as possible at the injured workers expense. Why shouldn't we injured workers be able to

switch our advocates if we feel they aren't doing their job to help us through the system? Why should injured workers be turned away from qualified Doctors for treatment, because the hassles and paperwork for the physicians dealing with Workers Compensation are so overwhelming? Why should the Doctors that choose to treat the injured workers be forced to take a portion of their fees because the injured workers case went to trial? Why should the first reliable information about the Workers Compensation system come from other injured workers who have already been through the system? Isn't the system set up to help the injured workers? Wasn't the system set up to stop the lawsuits of the injured workers towards their companies? So what is the purpose of this system if the only way an injured worker is to receive their rightful benefits is to hire an attorney who is willing to put in many years fighting for those very benefits?

With all of the intelligence that we have elected into the legislature I hope that you can see the way to make some positive changes to this very flawed system. Help the injured workers mend the fences with their Doctors so they can get care once again. Help the injured workers claim the right to choose their own advocates. Help the injured workers get a raise in their benefit amounts so they don't have to loose everything that they have worked so hard for. Help the injured workers focus on healing their bodies instead of trying to detect hidden traps. If benefits are wrongly denied help make the insurance companies pay the attorney fees instead of the injured worker. It is too late for my case; for I have 14 years of scars, but I hope that you will take a moment and think how this process would affect you or your loved ones at a time of injury and pain. Ladies and Gentlemen in this day and age there has to be a better way and I know that you can put your heads together and find it.

Thank you for your time and consideration.

Sincerely,
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